

**In The United States Patent and Trademark Office
On Appeal From The Examiner To The Board
of Patent Appeals and Interferences**

In re Application of: Takeshi (nmi) Hoshida et al.
Serial No.: 09/853,323
Filing Date: May 10, 2001
Group Art Unit: 2613
Confirmation No.: 5870
Examiner: Agustin Bello
Title: Method and System for Transmitting Information in an
Optical Communication System Using Distributed
Amplification

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Amended Appeal Brief

Appellants have appealed to the Board of Patent Appeals and Interferences from the decision of the Examiner mailed February 7, 2006, rejecting Claims 1-26, all of which are pending in this case. Appellants filed a Notice of Appeal on August 4, 2006, and filed an Appeal Brief on September 29, 2006. The Patent Office mailed a Notification of Non-Compliant Appeal Brief on October 4, 2006. The Amended Appeal Brief is filed in response.

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Real Party In Interest

This application is currently owned by Fujitsu Limited, as indicated by an assignment recorded on April 1, 2002, in the Assignment Records of the United States Patent and Trademark Office at Reel 012772, Frames 0934-0938.

Related Appeals and Interferences

There are no known appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision regarding this appeal.

Status of Claims

Claims 1-26 are pending in this application. Claims 1-26 are rejected pursuant to a Office Action mailed February 7, 2006, and are all presented for appeal. All pending claims are shown in Appendix A.

ATTORNEY DOCKET:
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PATENT APPLICATION
09/853,323

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Status of Amendments

No claims have been amended.

Summary of Claimed Subject Matter

Independent Claim 1 of the present invention recites a method for transmitting information in an optical communication system that includes modulating a non-intensity characteristic of an optical carrier signal with a data signal to generate an optical information signal (as an example only, and not by way of limitation, see Page 12, lines 15-27; Page 12, line 28 – Page 13, line 3; Page 19, lines 18-31; see also Figures 1 and 9). The method also includes transmitting the optical information signal over an optical link and amplifying the optical information signal over a length of the optical link with a co-launched amplification signal traveling in a same direction as the optical information signal in the optical link (as an example only, and not by way of limitation, see Page 11, lines 3-11 and 23-33; Page 19, line 32 – Page 20, line 9; see also Figures 1 and 9). Independent Claim 13 recites analogous limitations in the form of a system claim and thus the figure and description references noted above as examples apply equally to Claim 13. Independent Claim 23 recites an optical signal that is modulated and amplified in a manner that it similar, although not identical, to the method of Claim 1 – thus the figure and description references noted above as examples apply equally to Claim 23. Finally, independent Claim 26 recites a method that is similar, although not identical, to the method of Claim 1 – thus the figure and description references noted above as examples apply equally to Claim 26.

Particular embodiments of the present invention may be better understood with reference to Figure 1 of the application. Figure 1 illustrates an optical communication system 10 in accordance with one embodiment of the present invention. In this embodiment, the optical communication system 10 is a wavelength division multiplexed (WDM) system in which a number of optical channels are carried over a common path at disparate wavelengths. The WDM system 10 includes a WDM transmitter 12 at a source end point and a WDM receiver 14 at a destination end point coupled together by an optical link 16. The WDM transmitter 12 transmits data in a number of optical signals, or channels, over the optical link 16 to the remotely located WDM receiver 14. (Page 9, lines 2-17).

The WDM transmitter 12 includes a number of optical senders 20 and a WDM multiplexer 22. Each optical sender 20 generates an optical information signal 24 on one of a set of distinct wavelengths. The optical information signals 24 comprise optical signals with at least one characteristic modulated to encode audio, video, textual, real-time, non-real-time or other suitable data. The optical information signals 24 are multiplexed into a single WDM signal 26 by the WDM multiplexer 22 for transmission on the optical link 16. (Page 9, line 27 – Page 10, line 4).

The WDM receiver 14 receives, separates and decodes the optical information signals 24 to recover the included data. In one embodiment, the WDM receiver 14 includes a WDM demultiplexer 30 and a plurality of optical receivers 32. The WDM demultiplexer 30 demultiplexes the optical information signals 24 from the single WDM signal 26 and sends each optical information signal 24 to a corresponding optical receiver 32. Each optical receiver 32 optically or electrically recovers the encoded data from the corresponding signal 24. (Page 10, lines 9-18).

The optical link 16 comprises optical fiber or other suitable medium in which optical signals may be transmitted with low loss. Interposed along the optical link 16 are one or more optical amplifiers 40. The optical amplifiers 40 increase the strength, or boost, one or more of the optical information signals 24, and thus the WDM signal 26, without the need for optical-to-electrical conversion. In one embodiment, the optical amplifiers 40 comprise discrete amplifiers 42 and distributed amplifiers 44. The discrete amplifiers 42 comprise rare earth doped fiber amplifiers, such as erbium doped fiber amplifiers (EDFAs), and other suitable amplifiers operable to amplify the WDM signal 26 at a point in the optical link 16. (Page 10, lines 21 – Page 11, line 2).

The distributed amplifiers 44 amplify the WDM signal 26 along an extended length of the optical link 16. In one embodiment, the distributed amplifiers 44 comprise bi-directional distributed Raman amplifiers (DRA). Each bi-directional DRA 44 includes a forward, or co-pumping source laser 50 coupled to the optical link 16 at a beginning of the amplifier 44 and

a backward, or counter-pumping source laser 52 coupled to the optical link 16 at an end of the amplifier 44. (Page 11, lines 3-11).

The amplification signal from the co-pumping laser 52 is launched in the direction of travel of the WDM signal 26 and thus co-propagated with the WDM signal 26 at substantially the same speed and/or a slight or other suitable velocity mismatch. The amplification signal from the counter-pumping laser 52 is launched in a direction of travel opposite that of the WDM signal 26 and thus is counter-propagated with respect to the WDM signal 26. The amplification signals may travel in opposite directions simultaneously at the same or other suitable speed. (Page 11, lines 23-33).

A non-intensity characteristic of a carrier signal is modulated with the data signal at each optical sender 20. The non-intensity characteristic comprises phase, frequency or other suitable characteristic with no or limited susceptibility to cross talk due to cross-gain modulation (XGM) from a forward pumping distributed amplifier or a bi-directional pumping distributed amplifier. The non-intensity modulated optical information signal may be further and/or remodulated with a clock or other non-data signal using an intensity modulator. Thus, the non-intensity modulated optical information signal may comprise intensity modulation of a non-data signal. (Page 12, lines 15-27).

In a particular embodiments, the WDM signal 26 comprises phase or frequency modulated optical information signals 24 which are amplified using the bi-directional DRAs 44 with no cross talk between the channels 24 due to XGM. In this embodiment, the bi-directional DRAs 44 provide amplification at a superior optical signal-to-noise ratio and thus enable longer transmission distances and improved transmission performance. (Page 12, line 28 – Page 13, line 3).

Figure 9 of the application illustrates a method for transmitting information in an optical communication system using distributed amplification in accordance with one example embodiment of the present invention. In this example embodiment, data signals are phase-shift keyed onto the carrier signal and the signal is amplified during transmission using

discrete and distributed amplification. The method begins at step 140 in which the phase of each disparate wavelength optical carrier signal is modulated with a data signal 74 to generate the optical information signals 24. At step 142, the optical information signals 24 are multiplexed into the WDM signal 26. At step 143, the WDM signal 26 is transmitted in the optical link 16. (Page 19, lines 18-31).

Proceeding to step 144, the WDM signal 26 is amplified along the optical link 16 utilizing discrete and distributed amplification. As previously described, the WDM signal 26 may be amplified at discrete points using EDFAs 42 and distributedly amplified using bi-directional DRAs 44. Because the data signals are modulated onto the phase of the carrier signal, cross talk between channels from XGM due to forward pumping amplification is eliminated. Accordingly, the signal-to-noise ratio can be maximized and the signals may be transmitted over longer distances without regeneration. (Page 19, line 32 – Page 20, line 9).

Next, at step 145, the WDM signal 26 is received by the WDM receiver 14. At step 146, the WDM signal 26 is demultiplexed by the demultiplexer 30 to separate out the optical information signals 24. At step 147, the phase modulated optical information signals 24 are converted to intensity modulated signals for recovery of the data signal 74 at step 148. In this way, data signals 74 are transmitted over long distances using forward or bi-directional pumping distributed amplification with a low bit-to-noise ratio. (Page 20, lines 10-19).

Grounds of Rejection to be Reviewed on Appeal

Appellants request that the Board review the Examiner's rejection of Claims 1-6, 8-9, 11-18, 20-21, 23-24, and 26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,515,196 issued to Kitajima ("*Kitajima*") in view of U.S. Patent No. 6,417,958 issued to Du ("*Du*"). In addition, Appellants request that the Board review the Examiner's rejection of Claims 7, 10, 19, 22, and 25 under 35 U.S.C. § 103(a) as being unpatentable over *Kitajima* in view of *Du* and further in view of U.S. Patent No. 6,556,327 issued to Ohya ("*Ohya*").

Furthermore, Appellants request that the Board review the Examiner's rejection of Claims 1-5, 7-9, 11-17, 19-21, 23, and 25-26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,310,709 issued to Bergano ("*Bergano*") in view of *Du*. Finally, Appellants request that the Board review the Examiner's rejection of Claims 6, 10, 18, 22, and 24 under 35 U.S.C. § 103(a) as being unpatentable over *Bergano* in view of *Du*, and further in view of *Ohya*.

Argument

The Examiner's rejections of Claims 1-26 is improper, and the Board should withdraw the rejections for the reasons given below.

I. The Examiner's *Kitajima* Rejection of Claims 1-6, 8-9, 11-18, 20-21, 23-24, and 26 is Improper

The Examiner rejects Claims 1-6, 8-9, 11-18, 20-21, 23-24, and 26 under 35 U.S.C. § 103(a) as being unpatentable over *Kitajima* in view of *Du*. Appellants respectfully disagree with this rejection for the reasons given below.

A. Independent Claims 1, 13, 23 and 26 are Allowable

Claim 1 of the present Application recites the following limitations:

A method for transmitting information in an optical communication system, comprising:
modulating a non-intensity characteristic of an optical carrier signal with a data signal to generate an optical information signal;
transmitting the optical information signal over an optical link; and
amplifying the optical information signal over a length of the optical link with a co-launched amplification signal traveling in a same direction as the optical information signal in the optical link.

Independent Claims 13, 23 and 26 recite similar, although not identical, limitations.

In order to establish a *prima facie* case of obviousness, three requirements must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge available to one skilled in the art, to modify a reference or combine multiple references; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or combination of references) must teach or suggest all of the claim limitations. M.P.E.P. § 2143. With respect to the *Kitajima-Du*, a *prima facie* case of obviousness cannot be maintained because neither *Kitajima* nor *Du* provides a suggestion or motivation to combine the references. The question raised under 35 U.S.C. § 103 is whether the prior art taken as a whole would suggest the claimed invention taken as a whole to one of ordinary

skill in the art at the time of the invention. *See* 35 U.S.C. § 103(a) (2000). Accordingly, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill at the time of the invention would have been prompted to combine the teachings of multiple references to arrive at the claimed invention.

The M.P.E.P. sets forth the strict legal standard for establishing a *prima facie* case of obviousness based on modification or combination of prior art references:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references where combined) must teach or suggest all the claim limitations.

M.P.E.P. chs. 2142-43 (Rev. 2, May 2004). “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. ch. 2143.03 (Rev. 2, May 2004) (citations omitted).

In addition, the M.P.E.P. and the Federal Circuit repeatedly warn against using an Appellant’s disclosure as a blueprint to reconstruct the claimed invention. For example, the M.P.E.P. states, “The tendency to resort to ‘hindsight’ based upon Appellant’s disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.” M.P.E.P. ch. 2142 (Rev. 2, May 2004). The governing Federal Circuit cases are equally clear.

A critical step in analyzing the patentability of claims pursuant to [35 U.S.C. § 103] is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. . . . Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one “to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher.”

In re Kotzab, 217 F.3d 1365, 1369, 55 U.S.P.Q.2d 1313, 1316 (Fed. Cir. 2000) (citations omitted).

The Examiner argues that it would be obvious to modify the system of *Kitajima* to add the co-propagating amplifier of *Du* because *Du* indicates the use of a co-launched amplification signal to provide for a reduction of signal-pump-signal cross talk (citing Col 3, lines 31-37). However, *Du* actually discloses that a co-propagating Raman amplifier *increases* cross-talk. *Column 1, lines 21-32*. The invention of *Du* is directed at a way of reducing this cross-talk when using a co-propagating Raman amplifier. Therefore, *Du* certainly does not motivate one to *add* a co-propagating amplifier to reduce cross-talk – instead it discloses how to deal with *increased* cross-talk if a co-propagating amplifier is used.

Furthermore, there is no disclosure or suggestion in *Du* that modulating a non-intensity characteristic of an optical signal with a data signal reduces cross-talk when using a co-propagating amplifier. Appellants refer the Examiner to Column 3, lines 49-64 of *Du*, which summarizes the ways that *Du* proposes to reduce such cross-talk (also see Figures 11-13 and the accompanying description for a detailed discussion of the proposed techniques). None of these proposed techniques relates to modulating a non-intensity characteristic of an optical signal, and there is no disclosure or suggestion in *Du* that a non-intensity modulated signal provides any advantages when using a co-propagating Raman amplifier. Therefore, there is no suggestion or motivation to combine a non-intensity modulated signal with *Du*'s disclosure of the use of a co-propagating Raman amplifier. In fact, *Du* teaches away from the use of a co-propagating Raman amplifier except when using those systems specifically disclosed in *Du* (which do not modulate a non-intensity characteristic of an optical signal) since these are the only situations in which *Du* recognizes that the cross-talk created by a co-propagating Raman amplifier is sufficiently reduced.

Therefore, because there is no suggestion or motivation to combine the teachings of *Du* and *Kitajima*, Appellants respectfully submit that Claims 1, 13, 23 and 26 are in condition for allowance. Furthermore, the claims that depend from these allowable independent claims

(including Claims 2-6, 8-9, 11-12, 14-18, 20-21, and 24) are also in condition for allowance. Therefore, Appellants respectfully request allowance of these claims.

B. Dependent Claims 2 and 14 are Allowable

In addition to depending from an allowable independent claim, many of the claims that depend from Claims 1, 13, and 23 are also allowable given the additional limitations that these claims recite. For example, dependent Claims 2 and 14 recite that the co-launched amplification signal travels at a substantially the same speed as the optical information signal. In the Office Action, the Examiner asserts that since both of these signals are light signals, they travel at the same speed (i.e., “the speed of light”). Appellants respectfully disagree with this assertion. The speed of light is constant in a vacuum. However, in a transmission media (such as an optical fiber), the speed at which “light” travels varies by its wavelength. For example, it is this well-known phenomenon that causes chromatic dispersion in an optical signal. It is in this context that the term “substantially” is used. If the phrase “substantially the same speed” were to be interpreted to include all variations of speed possible in an optical medium, as the Examiner argues on pages 10-11 of the Final Office Action, then these claims would not further limit the independent claims. This is an improper construction. Therefore, Appellants respectfully submit that the limitations are Claims 2 and 14 are not taught in the cited references and are not disclosed based on the constant speed of light in a vacuum. For at least this additional reason, Appellants request allowance of Claims 2 and 14.

C. Dependent Claims 11 and 12 are Allowable

Furthermore, dependent Claim 11 recites “further amplifying the signal [the signal that was amplified using co-launch amplification] in the optical link with a discrete amplifier,” and Claim 12 recites that this discrete amplifier is an erbium-doped fiber amplifier (EDFA). Although *Kitajima* discloses the use of a discrete amplifier and *Du* discloses the use of a Raman amplifier, there is no teaching in either reference of the claimed limitation – amplifying a signal using both types of amplifiers. Furthermore, there is no motivation provided in the references or given by the Examiner to combine the use of two different amplifiers disclosed in these two different references. For at least this additional reason, Appellants respectfully request allowance of Claims 11 and 12.

II. The Examiner's *Kitajima* Rejection of Claims 7, 10, 19, 22, and 25 is Improper

The Examiner also rejects Claims 7, 10, 19, 22, and 25 under 35 U.S.C. § 103(a) as being unpatentable over *Kitajima* in view of *Du* and further in view of *Ohya*. Claims 7, 10, 19, 22, and 25 are each dependent from one of independent Claims 1, 13, and 23, discussed above. Therefore, at least because they depend from an allowable independent claims, Appellants respectfully request allowance of Claims 7, 10, 19, 22, and 25.

III. The Examiner's *Bergano* Rejection of Claims 1-5, 7-9, 11-17, 19-21, 23, and 25-26 is Improper

The Examiner also rejects Claims 1-5, 7-9, 11-17, 19-21, 23, and 25-26 under 35 U.S.C. § 103(a) as being unpatentable over *Bergano* in view of *Du*. Appellants respectfully disagree with this rejection for the reasons given below.

A. Independent Claims 1, 13, 23 and 26 are Allowable

A *prima facie* case of obviousness based on these references cannot be maintained for at least two reasons. First, neither *Bergano* nor *Du* provides a suggestion or motivation to combine the references. Furthermore, even assuming for the sake of argument that the references did suggest or motivate a combination of the references to a person of ordinary skill in the art at the time of the invention, *Bergano* and *Du*, whether considered singly, in combination with one another, or in combination with information generally available to those of ordinary skill in the art at the time of the invention, still fail to disclose all of the elements of the pending claims.

1. The References Do Not Disclose Each and Every Limitation of the Claims

First, *Bergano* and *Du* do not disclose each and every limitation of any of the rejected claims. For example, independent Claim 1 recites “modulating a non-intensity characteristic of an optical carrier signal with a data signal to generate an optical information signal.” Independent Claims 13 and 23 recite similar, although not identical, limitations. In the Final

Office Action, the Examiner argues that this limitation is disclosed in *Bergano* (by elements 102 of Figure 1). However, Appellants respectfully submit that this is not the case. Element 102 of Figure 1 is a data modulator that “that modulates the signal to impart information in a *conventional* manner to produce a modulated optical information signal 103.” *Column 2, lines 28-32* (emphasis added). It also discloses that the data modulator “modulates the optical signal 101 *at a frequency* determined by a clock 106 via a clock signal on line 117.” *Column 2, lines 34-36*. The Examiner has argued in past Office Actions¹ that he believes that this means that frequency modulation is used. However, the fact that the modulator operates at a frequency indicates to Appellants that the frequency is *not* being modulated (since it operates at a single frequency). As an example only, Appellants own application happens to describe *intensity* modulating a signal with a clock frequency (see Page 14, line 30 – Page 15, line 11 and Figure 4). In any case, *Bergano* certainly does not specifically disclose that data modulator modulates the data onto the signal using non-intensity modulation, as required by Claims 1, 13, 23 and 26.

Furthermore, *Bergano* suggests that the “conventional” technique used by the data modulator to modulate the data onto the signal is *intensity* modulation.² See *Column 2, line 60 – Column 3, line 1*. However, the Examiner has argued in past Office Actions that frequency modulation is a “conventional” modulation scheme. Appellants submit that there is no support in the cited references for this proposition (and, in fact, *Bergano* instead suggests that intensity modulation is being used). The Examiner appears to argue on page 7 of the Final Office Action before Appellants’ former Appeal Brief was filed that frequency modulation is a conventional modulation scheme “[g]iven that Appellant has failed to specify a conventional modulation scheme and given the broadest reasonable interpretation of a conventional modulation scheme.” Appellants have no duty to specify what *Bergano* means by modulating a signal in a “conventional manner” (as it appears the Examiner is implying).

¹ Since the Examiner has not provided any explanation as to how *Bergano* teaches this limitation (beyond pointing to element 102), Appellants assume the Examiner is maintaining his previous arguments relating to this limitation and will again address those arguments.

² The reference indicates that the electric field of the optical signal upon which the phase modulator 108 acts (i.e., the optical signal onto which data modulator 102 has modulated the data) is a function of the intensity modulation of the signal upon which phase modulator acts. This indicates that this signal has been intensity modulated and the only modulator that acted on the signal before the phase modulator 108 is the data modulator 102. Thus, the data modulator 102 must be an intensity modulator.

The burden is on the Examiner to prove that the claims are obvious based on the cited reference (although, in this case, Appellants have actually shown what *Bergano* means by “conventional manner” – intensity modulation). Furthermore, in past Office Actions, the Examiner has incorrectly applied a claim interpretation standard to the prior art by stating that he can expand the teachings of the prior art to their “broadest reasonable interpretation.” Again, in any case, *Bergano* does not disclose that data modulator modulates the data onto the signal using non-intensity modulation, as required by Claims 1, 13, 23 and 26. Again, it suggests the opposite.

Therefore, *Bergano* does not disclose “modulating a non-intensity characteristic of an optical carrier signal with a data signal to generate an optical information signal,” as recited in Claim 1, and as similarly recited in Claims 13, 23 and 26. Furthermore, as the Examiner recognizes, *Du* also does not disclose this limitation. Therefore, for at least this reason, the *Du-Bergano* combination does not disclose each and every limitation of any of the rejected claims.

2. *There Is No Suggestion or Motivation to Combine the References*

Second, there is no suggestion or motivation to combine *Du* and *Bergano*. As with the *Kitajima-Du* combination, the Examiner argues that it would be obvious to modify the system of *Bergano* to add the co-propagating amplifier of *Du* because *Du* indicates the use of a co-launched amplification signal to provide for a reduction of signal-pump-signal cross talk (citing Col 3, lines 31-37). However, as discussed above, *Du* actually discloses that a co-propagating Raman amplifier *increases* cross-talk. *Column 1, lines 21-32*. The invention of *Du* is directed at a way of reducing this cross-talk when using a co-propagating Raman amplifier. Therefore, *Du* certainly does not motivate one to *add* a co-propagating amplifier to reduce cross-talk (instead it discloses how to deal with *increased* cross-talk if a co-propagating amplifier is used).

Furthermore, there is no disclosure or suggestion in *Du* that modulating a non-intensity characteristic of an optical signal with a data signal reduces cross-talk when using a co-propagating amplifier. Appellants refer the Examiner to Column 3, lines 49-64 of *Du*,

which summarizes the ways that *Du* proposes to reduce such cross-talk (also see Figures 11-13 and the accompanying description for a detailed discussion of the proposed techniques). None of these proposed techniques relates to modulating a non-intensity characteristic of an optical signal, and there is no disclosure or suggestion in *Du* that a non-intensity modulated signal provides any advantages when using a co-propagating Raman amplifier. Therefore, even if *Bergano* disclosed modulating a non-intensity characteristic of an optical signal with a data signal (which it does not, as discussed above), there is no suggestion or motivation to combine a non-intensity modulated signal with *Du*'s disclosure of the use of a co-propagating Raman amplifier. In fact, *Du* teaches away from the use of a co-propagating Raman amplifier except when using those systems specifically disclosed in *Du* (which do not modulate a non-intensity characteristic of an optical signal) since these are the only situations in which *Du* recognizes that the cross-talk created by a co-propagating Raman amplifier is sufficiently reduced.

Therefore, because neither *Du* nor *Bergano* disclose each and every limitation of Claims 1, 13, 23 or 26 and because there is no suggestion or motivation to combine the teachings of *Du* and *Bergano*, Appellants respectfully submit that Claims 1, 13, 23 and 26 are in condition for allowance. Furthermore, the claims that depend from these allowable independent claims (including Claims 2-5, 7-9, 11-12, 14-17, 19-21, and 25) are also in condition for allowance. Therefore, Appellants respectfully request allowance of these claims.

B. Dependent Claims 2 and 14 are Allowable

In addition to depending from an allowable independent claim, the claims dependent from Claims 1, 13, and 23 are also allowable given the additional limitations that these claims recite. For example, dependent Claims 2 and 14 recite that the co-launched amplification signal travels at a substantially the same speed as the optical information signal. In the Office Action, the Examiner asserts that since both of these signals are light signals, they travel at the same speed (i.e., "the speed of light"). As noted above, Appellants respectfully disagree with this assertion. The speed of light is constant in a vacuum. However, in a transmission media (such as an optical fiber), the speed at which "light" travels varies by its wavelength.

For example, it is this well-known phenomenon that causes chromatic dispersion in an optical signal. Therefore, Appellants respectfully submit that the limitations are Claims 2 and 14 are not taught in the cited references and are not disclosed based on the constant speed of light in a vacuum. For at least this additional reason, Appellants request allowance of Claims 2 and 14.

C. Dependent Claims 11 and 12 are Allowable

Furthermore, dependent Claim 11 recites “further amplifying the signal [the signal that was amplified using co-launch amplification] in the optical link with a discrete amplifier,” and Claim 12 recites that this discrete amplifier is an erbium-doped fiber amplifier (EDFA). Although *Bergano* briefly mentions the use of a discrete amplifier and *Du* discloses the use of a Raman amplifier, there is no teaching in either reference of the claimed limitation – amplifying a signal using both types of amplifiers. Furthermore, there is no motivation provided in the references or given by the Examiner to combine the use of two different amplifiers disclosed in these two different references. For at least this additional reason, Appellants respectfully request allowance of Claims 11 and 12.

IV. The Examiner’s *Bergano* Rejection of Claims 6, 10, 18, 22, and 24 is Improper

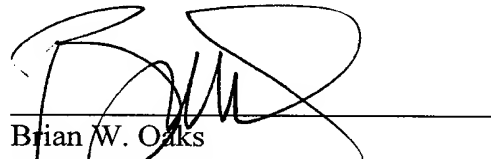
The Examiner also rejects Claims 6, 10, 18, 22, and 24 under 35 U.S.C. § 103(a) as being unpatentable over *Bergano* in view of *Du*, and further in view of *Ohya*. Claims 6, 10, 18, 22, and 24 are each dependent from one of independent Claims 1, 13, and 23, discussed above. Therefore, at least because they depend from an allowable independent claims, Appellants respectfully request allowance of Claims 6, 10, 18, 22, and 24.

Conclusion

Appellants have demonstrated that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

Appellants do not believe any fees are due for the filing of the Amended Appeal Brief. However, the Commissioner is hereby authorized to charge any other fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
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Appendix A: Claims on Appeal

1. A method for transmitting information in an optical communication system, comprising:

modulating a non-intensity characteristic of an optical carrier signal with a data signal to generate an optical information signal;

transmitting the optical information signal over an optical link; and

amplifying the optical information signal over a length of the optical link with a co-launched amplification signal traveling in a same direction as the optical information signal in the optical link.

2. The method of Claim 1, wherein the co-launched amplification signal travels at a substantially same speed as the optical information signal.

3. The method of Claim 1, wherein the co-launched amplification signal comprises a wavelength lower than that of the optical information signal.

4. The method of Claim 1, wherein the optical information signal is amplified over the length of the optical link with the co-launched amplification signal by distributed Raman amplification (DRA).

5. The method of Claim 1, further comprising:

generating a plurality of optical information signals each comprising a wavelength distinct carrier signal having the non-intensity characteristic modulated with a data signal;

multiplexing the plurality of optical information signals to generate a wavelength division multiplexed (WDM) signal;

transmitting the WDM signal over the optical link; and

amplifying the WDM signal over the length of the optical link with a plurality of co-launched amplification signals transmitted in the same direction as the WDM signal.

6. The method of Claim 1, wherein the phase of the optical carrier signal is modulated with the data signal.

7. The method of Claim 1, wherein the frequency of the optical carrier signal is modulated with the data signal.

8. The method of Claim 1, further amplifying the optical information signal over a second length of the optical link with a counter-launched amplification signal traveling in an opposite direction as the optical information signal and the co-launched amplification signal.

9. The method of Claim 1, wherein the optical information signal and the co-launched amplification signal travel in the first direction, further comprising:

modulating the non-intensity characteristic of a second optical carrier signal with a second data signal to generate a second optical information signal;

transmitting the second optical information signal over the optical link in a second direction opposite the first direction; and

amplifying the first and second optical information signals over the length of the optical link with the co-launched amplification signal and a counter-launched amplification signal traveling in the second direction.

10. The method of Claim 1, further comprising:

remodulating the optical information signal with a transmission clock frequency using an intensity modulator to generate a multimodulated signal;

transmitting the multimodulated signal over the optical link; and

amplifying the multimodulated signal over the length of the optical link with the co-launched amplification signal traveling in the same direction as the multimodulated signal.

11. The method of Claim 1, further amplifying the signal in the optical link with a discrete amplifier.

12. The method of Claim 1, wherein the discrete amplifying comprises an erbium-doped fiber amplifier (EDFA).

13. An optical communication system, comprising:
an optical sender operable to modulate a non-intensity characteristic of an optical carrier signal with a data signal to generate an optical information signal;
an optical link operable to transmit the optical information signal; and
a distributed amplifier comprising a pump laser operable to co-launch an amplification signal traveling in a same direction as the optical information signal, the co-launch amplification signal operable to amplify the optical information signal over a length of the optical link.

14. The optical communication system of Claim 13, wherein the co-launched amplification signal travels at a substantially same speed as the optical information signal.

15. The optical communication system of Claim 13, wherein the co-launched amplification signal comprises a wavelength lower than that of the optical information signal.

16. The optical communication system of Claim 13, wherein the optical information signal is amplified over the length of the optical link with the co-launched amplification signal by distributed Raman amplification (DRA).

17. The optical communication system of Claim 13, further comprising:
the optical sender operable to generate a plurality of optical information signals each comprising a wavelength distinct carrier signal having the non-intensity characteristic modulated with a data signal, multiplex the plurality of optical information signals to generate a wavelength division multiplexed (WDM) signal and transmit the WDM signal over the optical link; and
the distributed amplifier comprising the pump laser operable to co-launch a plurality of amplification signals traveling in the same direction as the WDM signal, the co-launched amplification signals operable to amplify the WDM signal over the length of the optical link.

18. The optical communication system of Claim 13, wherein the phase of the optical carrier signal is modulated with the data signal.

19. The optical communication system of Claim 13, wherein the frequency of the optical carrier signal is modulated with the data signal.

20. The optical communication system of Claim 13, the distributed amplifier comprising a second pump laser operable to counter-launch a second amplification signal in an opposite direction as the optical information signal, the counter-launched amplification signal operable to amplify the optical information signal over a second length of the optical link.

21. The optical communication system of Claim 13, further comprising:
a second optical sender operable to modulate the non-intensity characteristic of a second optical carrier signal with a second data signal to generate a second optical information signal;
the optical link operable to transmit the second optical information signal in an opposite direction as the optical information signal; and
the distributed amplifier comprising a second pump laser operable to counter-launch a second amplification signal traveling in the opposite direction as the optical information signal, the co-launched amplification signal and the counter-launched amplification signal operable to amplify the optical information signal and the second optical information signal over the length of the optical link.

22. The optical communication system of Claim 13, further comprising:
the optical sender operable to remodulate the optical information signal with a transmission clock frequency using an intensity modulator to generate a multimodulated signal;
the optical link operable to transmit the multimodulated signal; and
the co-launched amplification signal operable to amplify the multimodulated signal over the length of the optical link.

23. An optical information signal propagated in an optical link, comprising:
a data signal modulated onto a non-intensity characteristic of an optical carrier signal;
and

the optical information signal comprising a plurality of photons absorbed from a co-launch amplification signal by a Raman effect.

24. The optical information signal of Claim 23, wherein the non-intensity characteristic of the optical carrier signal comprises the phase of the optical carrier signal.

25. The optical information signal of Claim 23, wherein the non-intensity characteristic of the optical carrier signal comprises the frequency of the optical carrier signal.

26. A method for transmitting information in an optical communication system, comprising:

modulating one of a phase and frequency of each of a plurality of wavelength distinct carrier signals with a data signal to generate an optical information signal;

multiplexing the optical information signals to generate a wavelength division multiplex (WDM) signal;

transmitting the WDM signal over an optical link; and

amplifying the WDM signal in the optical link using distributed Raman amplification (DRA) with a co-launch pump signal traveling in the same direction as a WDM signal and a counter-launch pump signal traveling in an opposite direction as the WDM signal.

Appendix B: Evidence

NONE

Appendix C: Related Proceedings

NONE